

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

TIMOTHY LAWRENCE DAY,

Defendant

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* **CASE NO. 18-3193-TJS**

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**SECOND CONSENT MOTION TO CONTINUE PRELIMINARY HEARING
AND WAIVE FILING OF INDICTMENT**

The United States of America, by and through the undersigned attorney, hereby requests an order continuing the Preliminary Hearing and the deadline for filing an indictment in this matter until May 19, 2019. In support of this motion, the Government states as follows:

1. On November 19, 2018, Defendant was charged by Criminal Complaint with receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2), and possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B).

2. On November 19, 2018, an Initial Appearance was held before the Honorable Magistrate Judge Timothy Sullivan. (ECF No. 1.) The Defendant was temporarily detained pending a detention hearing. (ECF No. 8.) A preliminary hearing was not scheduled.

3. On November 20, 2018, counsel for the Defendant entered his appearance and the Defendant consented to detention. (ECF Nos. 11 and 12.)

4. On December 5, 2018, the government filed a consent motion to continue the preliminary hearing and the deadline for filing an indictment until February 19, 2019. (ECF No. 15.) The Court subsequently granted this motion. (ECF No. 16.)

5. For the reasons set forth below, the parties now seek to continue the preliminary

hearing and the deadline for filing an indictment until May 19, 2019.

6. Pursuant to Fed. R. Crim. P. 5.1(c), a preliminary hearing must be held no later than 14 days after the initial appearance if the Defendant is not in custody. At the time of his detention hearing, the defendant waived his right to a preliminary hearing.

7. Pursuant to the Speedy Trial Act, the Government must file an indictment or information resulting from the charge against Defendant within thirty days of his arrest. *See* 18 U.S.C. § 3161(b).

8. Federal Rule of Criminal Procedure 5.1(d) provides, “With the defendant’s consent and upon a showing of good cause—taking into account the public interest in the prompt disposition of criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more times. . . .”

9. The Government and counsel for the Defendant have discussed the Speedy Trial deadlines. The Defendant, through counsel, agrees that the time within which a preliminary hearing must be held or an indictment filed may be extended to and including May 19, 2019.

10. The Government submits that there is good cause to extend the time in which it must file an indictment or the Court must hold a preliminary hearing. The Government has provided voluminous discovery to the defendant in this case. In addition, the Government is still completing the forensic review of the electronic devices seized during the execution of search warrants on November 7, 2018 and November 19, 2018. The requested extension would allow the Defendant an opportunity to discuss the results of that review with counsel and will provide the parties the opportunity to discuss the possible resolution of this case in advance of further proceedings, which would serve the public interest in prompt disposition of criminal cases. *See* Fed. R. Crim. P. 5.1(d); 18 U.S.C. § 3161(h)(7).

11. A proposed order is submitted herewith.

Based on the foregoing, the Government respectfully requests that the Court grant this Motion and continue the Preliminary Hearing in this matter and the deadline for filing an indictment until May 19, 2019.

Respectfully submitted,

Robert K. Hur
United States Attorney

By: /s/ Erin B. Pulice
Erin B. Pulice
Assistant United States Attorney